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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,415	02/10/2004	Jeff Cady	P-B110	9725

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EXAMINER	
PRINCE, FRED G	

ART UNIT	PAPER NUMBER
1724	

DATE MAILED: 06/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/775,415	CADY, JEFF	
	Examiner	Art Unit	
	Fred Prince	1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 February 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *9* is/are allowed.

6)☒ Claim(s) *1-8,10 and 11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. New corrected drawings in compliance with 37 CFR 1.121(d) will be required in this application if the application is ultimately allowed because the drawings contain lines, letters, and numbers not uniformly thick and well-defined. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 1 recites the limitations "the first filter band" in lines 3-4 and "the second filter band" in line 6. There is insufficient clear antecedent basis for these limitations in the claim. It is suggested that applicant use terminology consistent with that originally introduced in the claim, e.g., "the first band" and "the second band".

5. Claim 7 recites the limitation " the first filter band" in line 3 and "the second filter band" in line 5. There is insufficient antecedent basis for this limitation in the claim. It is suggested that use terminology consistent with that originally introduced in the claim, e.g., "the first band" and "the second band".

6. Claim 8 recites the limitation "the first filter band" in line 3 and "the second filter band" in line 5. There is insufficient antecedent basis for these limitations in the claim. It is suggested that applicant use terminology consistent with that originally introduced in the claim, e.g., "the first band" and "the second band".

Claim Rejections - 35 USC § 102/103

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 1, 6, and 10 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Acuff et al. (US Pat No 5,171,457).

Acuff et al. teach a filter screen (10) having an edge (Fig. 1), a first band (11), partially affixed to the filter screen near the edge, wherein the first band is partially free (Fig. 1) and a second band (12), partially affixed to the filter screen near the edge, opposed to

the first band (Fig. 1), wherein the second band is partially free (Fig. 1).

It is submitted that each string is inherently a "handle" that may be grasped by the user.

Regarding the preamble recitation of the filter being for installation in a pool filter basket, it is submitted that the recitation is one of intended use that fails to add structure to the apparatus claimed. Applicant should not that the manner in which a device is intended to be used is not a structural limitation and hence cannot be relied upon to patentably distinguish apparatus claims 1-6 and 10-11. It is well settled that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. If it is applicant's position that the claimed intended use somehow adds structure, it is submitted that the prior art filter is capable of being placed in a pool filter basket.

10. Claims 1-3, 5, 10, and 11 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Weeks, Jr. et al. (US Pat No 3,779,244)

Weeks, Jr. et al. teach a filter screen (10) comprising microfiber (col. 5, lines 33-58; col. 10, lines 10-25) and having an edge (Fig. 1), a first elastic band (18), partially affixed to the filter screen near the edge, wherein the first band is partially free (Fig. 1) and a second elastic band (20), partially affixed to the filter screen near the edge, opposed to the first band (Fig. 1), wherein the second band is partially free (Fig. 1).

It is submitted that each string is inherently a "handle" that may be grasped by the user.

Regarding the preamble recitation of the filter being for installation in a pool filter basket, it is submitted that the recitation is one of intended use that fails to add structure to the apparatus claimed. Applicant should not that the manner in which a device is intended to be used is not a structural limitation and hence cannot be relied upon to patentably distinguish apparatus claims 1-6 and 10-11. It is well settled that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. If it is applicant's position that the claimed intended use somehow adds structure, it is submitted that the prior art filter is capable of being placed in a pool filter basket.

11. Claims 1, 3, 5, and 10 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hiroshi (JP P2003-21094).

Hiroshi teaches a filter screen (16) having an edge (Fig. 1), a first elastic band (17), partially affixed to the filter screen near the edge, wherein the first band is partially free (Fig. 1) and a second elastic band (18), partially affixed to the filter screen near the edge, opposed to the first band (Fig. 1), wherein the second band is partially free (Fig. 1).

It is submitted that each string is inherently a "handle" that may be grasped by the user.

Regarding the preamble recitation of the filter being for installation in a pool filter basket, it is submitted that the recitation is one of intended use that fails to add structure to the apparatus claimed. Applicant should not that the manner in which a device is intended to be used is not a structural limitation and hence cannot be relied upon to patentably distinguish apparatus claims 1-6 and 10-11. It is well settled that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. If it is applicant's position that the claimed intended use somehow adds structure, it is submitted that the prior art filter is capable of being placed in a pool filter basket.

12. Claims 2, 4, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acuff et al. in view of Nohren et al. (US Pat No 6,599,427).

Acuff et al. is described above. Acuff et al. do not explicitly disclose using a microfiber.

In any event, Nohren et al. disclose utilizing a filter (4) comprising microfibers in order to, for example, remove harmful organisms from water prior to human use (col. 14, lines 30-39).

Accordingly, it would have been readily obvious for the skilled artisan to have modified the filter of Acuff et al. such that it comprises microfiber in order to, for example, remove harmful organisms from water prior to human use, as suggested by Nohren et al.

Allowable Subject Matter

13. Claim 9 is allowed.

14. Claims 7-8 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

15. The following is a statement of reasons for the indication of allowable subject matter:

Per claims 7-9, while it is known in the art to place a filter having a band partially affixed near to edge to a band into a filter basket (see, for example, US Pat No 5,176,825 to Hadjis et al.), and it is known to provide a filter with first and second partially affixed bands near the edge of the filter (see, for example, any of the above-applied references), in the examiner's opinion, the prior art fails to teach or render obvious combining the known to arrived at the instantly claimed invention. The instant invention provides the advantage of facilitating a more secure connection by allowing the accommodation of a filter basket handle, thereby avoiding the need to squeeze around the handle such as when a single band is used.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References are cited or interest to show the state of art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Prince whose telephone number is (571) 272-

1165. The examiner can normally be reached on Monday-Thursday, 6:30-4:00; alt. Fridays 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Fred Prince
Primary Examiner
Art Unit 1724

fgp
6/14/05